

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 174/Lab./AIL/J/2012, dated 9th October 2012)

NOTIFICATION

Whereas, the Award in I.D.No. 12 of 2009, dated 16-7-2012 of the Labour Court, Karaikal in respect of the industrial dispute between the management of M/s. Regma Ceramics Limited, Karaikal and its workman Thiru R. Palanivel, Karaikal over his non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G. O. Ms.No.20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the official gazette, Puducherry.

(By order)

S. THAMMU GANAPATHY,
Under Secretary to Government (Labour).

BEFORE THE LABOUR COURT, KARAIKAL

*Present : Tmt. R. MARGARET ROSALINE, M.L.,
Presiding Officer, District Judge.*

Monday, the 16th day of July 2012

I.D. No. 12/2009

R. Palanivel . . Petitioner

Versus

The Employer/Management,
M/s. Regma Ceramics Limited,
Sellur Village, Karaikal. . . Respondent

This petition coming on 8-6-2012 for final hearing before me in the presence of Thiru P. Muthukrishnan, Advocate for the petitioner, Thiru A. Veerapandian, Advocate for the respondent, upon hearing both sides and perusing the case records and having stood over for consideration till this day, this court passed the following:

AWARD

This is a reference made by the Labour Department to adjudicate the following issues:

(a) Whether the dispute raised by R.Palanivel against the management of M/s. Regma Ceramics Limited, Karaikal over his non-employment is justified or not?

(b) If justified, to what relief, the petitioner is entitled to?

(c) To compute the relief, if any, awarded in terms of money if it can be so computed?

2. The following are the averments found in the claim statement:

The petitioner was working as Supervisor in Quality Control Department designation in the respondent management from 7-5-2007 drawing the monthly salary of ₹7,500. Due to sincerity in the work, he was given several rewards by the respondent management. A sum of ₹125 was deducted towards E.S.I. contribution and ₹545 was towards his Provident Fund contribution from his salary. All of a sudden on 29-1-2009 when he was entering the premises of the respondent management, he was stopped by the time-keeper and he was denied access into the respondent company. When the petitioner approached the management, the respondent management had insisted him to resign voluntarily without any obvious reasons. He has also sent a requisition letter to the management for his reinstatement. In spite of it, the respondent management did not come forward to reinstate him. Therefore, he was compelled to raise an industrial dispute before the Labour Officer, Karaikal. During the conciliation proceedings, the management of the respondent company appeared before the Labour Officer averred false allegations. In spite of conciliation, no amicable settlement was arrived. Hence the Labour Officer gave failure report. Due to non-employment, the petitioner is unable to maintain his big family as he had no other source of income. Hence the petition.

3. The respondent company filed its counter with the following averments:

The petitioner was in service with the respondent management as a Supervisor (Quality Control) from 7-5-2007 on a pay scale of ₹ 3,900-200-5,925 inclusive of such benefits endurable to the employee of the respondent company. While so, for the periodical omissions committed by the petitioner, the management was constrained to issue several memos and warning letters and ultimately only to instill discipline with the petitioner herein, the management not wanting to initiate any disciplinary action for the lapses committed by him, deemed it fit and proper to give him an opportunity to work with the organisation by issuing an order of transfer to the petitioner to resume work at the main factory premises at Yanam, though he was only causing quality control duty at the Branch Unit at Karaikal. Once the transfer was intimated to him, the petitioner chose

to absent himself from duty by making a false claim and nearly after a period of more than a month before this authority *vide* his letter, dated 17-2-2009. Even after receipt of the communication, dated 22-1-2009, where the management had handed over the communicated letter to him requiring him to report for duty at Yanam from the first week of February. When the petitioner left, the management was under the impression that he is likely to report for duty at Yanam factory, a notice dated 27-2-2009 was received from the Office of Labour Officer, Karaikal made in F. No.211/2009 LO(C) stating that a representation has been received from R. Palanivel and required the management to remit suitable explanation to be offered on or before 10-3-2009 towards the content put forth by him for the non-employment caused to him in terms of the complaint made out in his representation, dated 17-2-2009. When the fact remains that after receipt of the order of transfer dated 22-1-2009, the petitioner has chosen to absent himself without either reporting for duty at the transferred station *i.e.* Yanam or reporting for duty at the regular work place, Karaikal from 30-1-2009. But, not choosing to agitate the grievance against the order of transfer, the respondent herein has chosen to raise a claim for non-employment by conveniently suppressing the matter on receipt of the order dated 22-1-2009 which offer duty to the respondent to be caused at the main factory premises at Yanam. The management was ready and willing to take him to service even though he had absented himself unauthorisedly with immediate effect. The petitioner have unauthorisedly absented himself from duty only to avoid any disciplinary action to be taken by the management in this regard and to fill up the gap period, has chosen to allege non-grant of employment by the respondent management and hence had raised a consequential claim of non-payment of salary after the unauthorised absence by contending it to be a period for which the respondent management ought to pay compensation of three months salary, for the period of alleged retrenchment. Hence the respondent management prayed for dismissal of the dispute.

4. Now the points for determination are:

- (1) Whether the petitioner was prevented from doing his work as averred by him?
- (2) Whether the petitioner was transferred to work at main factory premises at Yanam as alleged by the respondent management?
- (3) Whether the dispute raised by the petitioner over his non-employment is justifiable or not?
- (4) If not, to what reliefs, the petitioner is entitled to?

On these pleadings :

5. In order to substantiate his claim, the petitioner examined himself as PW.1 and has not chosen to mark any document. Ex.R1 has been marked during cross-examination of PW.1. On the side of the respondent, one witness has been examined as RW.1 and Ex.R2 to R8 were marked through him.

6. Point Nos.1 and 2:

The contention of the petitioner is that he was all of a sudden stopped from entering into the factory premises to do his work. On the other hand, the contention of the respondent management is that the petitioner was transferred to the main office at Yanam due to using of his service there. But the petitioner has not chosen to report for duty at Yanam and subsequently absented himself from work. It is an admitted fact that the petitioner was employed as Supervisor (Quality Control) from 7-5-2007 on a pay scale of ₹ 3,900-200-5,925 inclusive of all benefits. The petitioner has not chosen to mark any document. PW.1 during his cross-examination has stated that appointment order was given to him but he has not chosen to receive it. He has categorically denied his knowledge about the terms and conditions given in the said appointment order. Though the petitioner himself has admitted that he had given a letter to the Labour Commissioner stating his inability to go for work at Yanam, he has not chosen to refer about his transfer to Yanam in his petition. He has also categorically admitted that he has received the letter of transfer to Yanam and he has even given a letter stating that he is willing to go out of his job provided he was given four months salary. Therefore, this court is of opinion that the petitioner has not come to this court with all these facts for the reasons best known to him. He has even gone to the extent by saying that he did not want job at Yanam and he had informed the same to the respondent management. He has also admitted that a worker cannot say that he will work in a particular unit when there are other units available for the company in other parts of Union territory of Pondicherry. He has also admitted that he did not go to work at Yanam due to his family circumstances. Ex.R1 reveals that the petitioner himself has refused to go to Yanam and demanded four months salary. Therefore, it is evident that the petitioner was transferred to Yanam and he failed to report before its Yanam office as instructed by the respondent management.

7. The respondent management has chosen to mark the transfer order in Ex.R2. In Ex.R2, it is categorically stated that the petitioner has been transferred by the respondent management to Yanam and he was instructed to report before AGM-Operations, Yanam on or before

4-2-2009 and the petitioner was relieved from his work on 29-1-2009. Even after the dispute raised before the Labour Conciliation Officer, Karaikal, the respondent management still gave its consent to give appointment to the petitioner at Yanam Unit. Therefore it is evident that there is no denial of work on the part of the respondent management. In view of the admissions made by the petitioner himself that he has not been refused work and he was offered work at Yanam which he denied. This court is of opinion that the averments found in the petition are falsified by Ex.R1.

In view of the above discussion, point No. 1 is answered to the effect that the petitioner was not prevented from doing his work as averred by him.

In view of the above findings, point No. 2 is answered to the effect that the petitioner was transferred to work at Yanam factory as averred by the respondent management.

8. Point No. 3 :

In view of the findings in point No. 2, the petitioner himself has failed to report before the main office at the respondent management at Yanam and he absented himself from his duty. In such a circumstance, the petitioner is not entitled for an order of reinstatement as prayed by him. In view of the above discussion, point No. 3 is answered to the effect that the dispute raised by the petitioner over his non-employment is not justified.

9. Point No.4:

In view of the findings in issue No. 3, this issue is decided to the effect that the petitioner is not entitled for the relief as prayed by him.

In the result, the industrial dispute is dismissed.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open court on this the 16th day of July 2012.

R. MARGARET ROSALINE,
Presiding Officer, Labour Court,
Karaikal.

Petitioner's witness :

PW.1 — Palanivel

Respondent's witness :

RW.1 — Anandhan

Petitioner's exhibits : Nil

Respondent's exhibits :

Ex.R1 — 28-7-2011 Photocopy of letter, dated 2-6-2009 written by the petitioner to the Labour Officer, Karaikal, marked through cross examination of PW.1.

Ex.R2 — 8-11-2011 Copy of transfer/relieving order, dated 22-1-2009 issued to the petitioner.

Ex.R3 — 8-11-2011 Letter, dated 24-3-2009 written by the respondent to the Labour Officer, Karaikal.

Ex.R4 — 8-11-2011 Warning letter dated 2-1-2009 given by the respondent to the petitioner.

Ex.R5 — 8-11-2011 Copy of inter office note, dated 23-12-2008.

Ex.R6 — 8-11-2011 Memo. dated 14-12-2008 issued to the petitioner.

Ex.R7 — 8-11-2011 Memo. dated 24-11-2008 issued to the petitioner.

Ex.R8 — 8-11-2011 Copy of inter office note dated 11-10-2008.

R. MARGARET ROSALINE,
Presiding Officer, Labour Court,
Karaikal.

**GOVERNMENT OF PUDUCHERRY
CHIEF SECRETARIAT
DEPARTMENT OF INDUSTRIAL DEVELOPMENT
(INDUSTRIES AND COMMERCE)**

(G.O. Ms. No. 12/2012/Ind-A, dated 3rd October 2012)

NOTIFICATION

On attaining the age of superannuation, Thiru P. Natarajan, Assistant Director of Industries and Commerce, presently on deputation as Project Manager in the District Industries Centre, Puducherry shall retire from service with effect from the afternoon of 31-10-2012.

(By order)

P. RAJALAKSHMI,
Under Secretary to Government (Ind. & Com.).

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Ms. No. 13/Lab./E2/2012, dated 3rd October 2012)

NOTIFICATION

In supersession of this department's G.O. Ms. No. 30/Lab./E2/2007, dated 24-9-2007 and in pursuance of sub-section (4) of section 24 of the Apprentices Act, 1961 (Central Act 52 of 1961), the Lieutenant-Governor, Puducherry is pleased to